THE HONOURABLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No. 5991 OF 1996

Dated: 24th August,2005.

Between:-

M/s. Mayuri Films Distributions,

Having their Office at 1-10-76,

Fair Field,Begumpet, Hyderabad

Rep. By its General Manager G.P.A.

K.Bapineedu Choudary. …Petitioner

A N D

1. The State of A.P. Rep. By the Inspector

General of Registration and Stamps,

Hyderabad and another …Respondents

THE HONOURABLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No. 5991 OF 1996

ORDER:

1. The District Vigilance and Enforcement Officer, Visakhapatnam seized documents dated 5-2-1992 and 29-11-1995 which are agreements between Vijaya Pictures and the petitioner and Vasireddy Rajani Devi, and produced them before

the Deputy Inspector of Registration and Stamps, Visakhapatnam-(2nd respondent) who is the competent authority to collect deficit stamp duty under Section 73 of the Stamp Act. 2nd respondent, there upon, issued two check slips, directing the petitioner to pay Rs. 1,20,380/- and Rs.1,05,380/- towards stamp duty and penalty on the said documents. Questioning the said check slips, this writ petition is filed.

2. The learned counsel for the petitioner submitted elaborate arguments questioning the validity of the check slips contending that the terms of the documents cannot be construed as lease of immovable property and contended that petitioner need not pay the amount demanded under the check slips, since he is not a lessee of the theatres as assumed by the 2nd respondent.

3. The learned Government Pleader fairly stated that in view of the ratio in ***Canara Bank Vs. Regisrar and Collector, Registration of Stamps Department,*** striking down the amended Section 73 of the Stamps Act, the impugned check slips should be treated as having been issued without jurisdiction.

4. Admittedly, petitioner did not produce the agreements before any authority for any purpose, much less for the purpose of using them as evidence. They were seized when they were in the custody of the petitioner and were produced before the 2nd respondent, obviously by virtue of the power under Section 73 of the Stamp Act as amended by the A.P. Act 17 of 1986 which section was later struck down by a Division Bench decision of this Court. In view thereof the check slips impugned are liable to be set aside for lack of jurisdiction to seize and determine their nature.

5. In view thereof, I feel it unnecessary to go into the contentions raised by the learned counsel for the petitioner and hence I am not considering these contentions.

6. Accordingly, the writ petition is allowed. Rule Nisi made absolute and the check slips impugned in this petition are quashed. No order as to costs.

_____

C.Y.Somayajulu, J.

24th August, 2005.

KM

THE HONOURABLE SRI JUSTICE C.Y.SOMAYAJULU

W.P.No. 5991 OF 1996

24th August, 2005.